



Steve Bellone

SUFFOLK COUNTY EXECUTIVE

Natalie Wright  
CommissionerDepartment of Economic Development and Planning  
Division of Planning and  
Environment**STAFF REPORT****SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Petitioner:** TDG Realty Acquisitions  
**Municipality:** Town of Smithtown  
**Location:** s/s/o Jericho Tpk. (NYS Rte. 25) approximately 840 feet  
w/o Wyandanch Blvd.

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**Received:** 2/24/2022  
**File Number:** SM-22-01  
**T.P.I.N.:** 0800 09400 0200 002000  
**Jurisdiction:** within 500 feet of NYS Rte. 25 (Jericho Tpk.)

**ZONING DATA**

- Zoning Classification WSI and R-10
- Minimum Lot Area (Sq. Ft): 10000
- Section 278: NA
- Obtained Variance: NA

**SUPPLEMENTARY INFORMATION**

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
  - Map Yield: NA
- SEQRA Information: Yes
- SEQRA Type Unlisted
- Minority or Economic Distressed No

**SITE DESCRIPTION**

- Present Land Use: outdoor auto storage, trailer sales and truck accessory facility
- Existing Structures: commercial block and wood building
- General Character of Site: sloping north
- Range of Elevation within Site: 110 to 135' amsl
- Cover: wooded, disturbed vegetation and impervious building and asphalt
- Soil Types: Carver and Haven series
- Range of Slopes (Soils Map): 0-15%

- Waterbodies of Wetlands: None

## **NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST**

- Type: change of zone
- Layout: single building and amenities
- Area of Tract (Acres): 4.98
- Yield Map: NA
  - No. of Lots: 1
  - Lot Area Range (Sq. Ft.): NA
- Open Space (Acres): 0

## **ACCESS**

- Roads: Public
- Driveways: Private

## **ENVIRONMENTAL INFORMATION**

- Stormwater Drainage
  - Design System: catch basins - leaching pools
  - Recharge Basins: no
- Groundwater Management Zone: I
- Water Supply: public
- Sanitary Sewers: on-site STP or pump off site to private STP

## **PROPOSAL DETAILS**

### **OVERVIEW**

Petitioners seek Smithtown Town Board approval for a change of zone on 4.98 acres of land from WSI (Wholesale Service Industry) and R-10 (Residential 10,000 SF minimum lot size) to RM-GA (Residential Multifamily – Garden Apartments). The change of zone petition is to allow the construction of a 98-unit (107,723 SF), 3-story, age restricted (over 50), rental housing building in the hamlet of Commack. A lot occupancy variance from 25% to 54.2% or 98 units on 4.98 acres (19.6 units to the acre) would be required if the change of zone and conceptual plan is approved by the Smithtown Town Board.

It is noted in the referral materials (Smithtown EAF pg. 9) to the Suffolk County Planning Commission from the Smithtown Town Board that the proposed Sr. apartment building development intends the treatment of sanitary waste (“sewage”) generated by the apartment building to be via a “connection to an existing sewage treatment plant” but the plant was not identified.

On-site stormwater drainage structures (leaching pools) are proposed to recharge stormwater to the subsurface.

Access to the proposed apartment complex is intended to be from a single un-signalized ingress/egress roadway to Jericho Turnpike (NY S Rte. 25). The ingress/egress is proposed to be built to accommodate the traffic from the adjacent Fieldstone @ Commack apartment development adjacent and to the west. No alternate access or emergency access is proposed to this development site as indicated on the Concept Plan (prepared by Bohler Engineering dated 12/29/21).

Parking for the proposed apartment building development as proposed is in conformance with the Town of Smithtown Zoning Law. However, 17 off street parking stalls are located off-site on the adjacent Fieldstone @ Commack development.

It is not apparent if the petitioner or the Town have addresses the New York State Long Island Workforce Housing Act of if any of the units are intended to be set aside for individuals with developmental disabilities.

A review of the character of the land use and zoning pattern in the vicinity reveals that the subject property is split-zoned between the WSI District on the northern end and R-21 residential zoning on the remaining southern portion. The development site is in a corridor of commercial zoning along the south side of Jericho Turnpike (NYS Rt. 25) surrounded by predominantly residential zoning. Land use is, for the most part, reflective of the zoning along the State Road corridor but many parcels along the corridor are split zoned.

The subject property is situated in Hydro-geologic Ground Water Management Zone I pursuant to Article 6 of the Suffolk County Sanitary Code. The site is not located in a NYS Critical Environmental Area. The site is not located in a NYS Special Groundwater Protection Area. The subject site is not located in a Pine Barrens Zone of Suffolk County. The property is outside of the 0-25 groundwater travel time to surface waters. Federal, State and local mapped or regulated wetlands do not occur on the subject property. The development site is not in a Potential Environmental Justice Area. The subject property was formally used as an outdoor auto storage yard, trailer sales and truck accessory facility.

## **STAFF ANALYSIS**

Suffolk County Planning Commission Staff has reason to believe that the current proposal is to be a complementing element to the adjacent apartment project (Fieldstone @ Commack), adjacent and to the west. At several instances in the referral documents to the Planning Commission from the Town, the instant project is referred to as Fieldstone at Commack II. However, there is no analysis provided on the cumulative elements (intensity, parking and waste water capacity). As a result, the referral is reviewed as a stand-alone project.

**GENERAL MUNICIPAL LAW CONSIDERATIONS:** New York State General Municipal Law, Section 239-I provides for the Suffolk County Planning Commission to consider inter-community issues. Included in such issues are compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment.

The development of the subject property in accordance with the requested zoning does not appear to raise significant inter-community issues. Land use would be compatible with the existing land use to the west and can be adequately buffered from the land use to the east. Residential development would be consistent with the majority of the land uses and land use patterns to the south of the subject property. It is not expected that the proposed action will adversely impact community character, or the convenience of the community.

**LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS:** The subject development of the TDG Realty Acquisitions Apartment complex is in conformance with the Town of Smithtown Comprehensive Plan that indicates for Commack to “maintain most of the community in its current conditions ...and ... establish Jericho Turnpike as an automobile-oriented use corridor, with uses including apartments ...”

The proposed TDG Realty Acquisitions Change of Zone petition for apartments would be consistent with the Town’s comprehensive Plan.

## **SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:**

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities and include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the Commission policies:

The subject property was formally used as an outdoor auto storage yard, trailer sales and truck accessory facility. With regard to demolition of existing buildings to be carried out. Any on site recycling of demolition materials should be conducted at the farthest point from any sensitive residential receptors to reduce the issues related to noise and dust from recycling operations.

A Phase I Environmental Site Audit, containing an analysis of asbestos containing material in buildings, debris piles, soils or other environmental conditions of concern, is appropriate for the subject parcel. The ESA should be made part of the application review record.

As mentioned above, the referral materials (Smithtown EAF pg. 9) to the Suffolk County Planning Commission from the Smithtown Town Board that the proposed age restricted apartment building development intends the treatment of sanitary waste ("sewage") generated by the apartment building to be via a "connection to an existing sewage treatment plant" but the plant was not identified. The petitioner should begin/continue dialogue with the Suffolk County Department of Health Services and/or the Suffolk County Department of Public Works regarding connection to or construction of a Sewage Treatment Plant

Storm water runoff for the development portion of the subject apartment complex site is intended to be addressed by on-site stormwater drainage structures (leaching pools) proposed to recharge stormwater to the subsurface. There is reasonable room on the development site to consider natural methodologies for storm water treatment to supplement the drainage plan. The petitioner should be directed to the Commission's publication on storm water treatment through natural methods. The Suffolk County Planning Commission's publication Managing Stormwater - Natural Vegetation and Green Methodologies should be reviewed and additional storm water mitigations incorporated where practical.

It is not apparent if the petitioner or the Town have addresses the New York State Long Island Workforce Housing Act or if any of the units are intended to be set aside for individuals with developmental disabilities. No less than ten (10) units should be set aside for affordable housing purposes. Some percentage of the ten units should be set aside for individuals with developmental disabilities.

Regarding motor vehicle transportation issues, 98 attached Senior Apartments units can produce as much as 300 or more trips per average weekday according to typical attached elderly housing multipliers. The project sponsors should be directed to conduct a Traffic Impact Study on the local roadways, particularly NYS Rte. 25 (Jericho Turnpike). Improvements as necessary to local streets and NYS Rte. 25 may be necessary and may include right-of-way dedication and/or widening, signage, signalization, sidewalks and street furniture amenities.

The project sponsors should be directed to begin/continue dialogue with the New York State Department of Transportation for mitigations to any anticipated roadway concerns effecting the intersection of the site entrance/exit and Jericho Turnpike (NYS Rte. 25).

The subject development site for the TDG Realty Acquisitions apartments can be considered on the verge of being remotely situated and possessing limited amenities in a walkable distance desirable to support multi-family residence purposes. In addition, according to the Suffolk County Reimagine Transit initiatives, preliminary recommendations indicate that Suffolk County Transit Bus Route S58 is anticipated to be relocated more than a mile away from its current route in front of the subject property sometime in the near future. The petitioner should be directed to consider providing a van/shuttle service to points including health service and grocery shopping.

The petitioner should investigate "Parking Stall Demand Reduction" or "PSDR" techniques to incentivize residents to eliminate a Single Occupancy Vehicle and hence an off street parking stall. An additional benefit is the creation of additional buffers and area for natural storm water treatment.

It is not clear if the subject application can indeed meet of street parking requirements without the encroachment into the adjacent property. PSDR techniques include unbundling the cost of parking spaces from the cost of rent. A Shuttle Transportation Program, Transit Info Screens/Ride Share Marquee, etc. The Suffolk County Planning Commission has produced a draft "model code" and report on such PSDR techniques and has recommended that no building or structure should be constructed, used or occupied without the adoption of Parking Stall Demand Reduction (PSDR) techniques conditioned, through covenants and restrictions, on land use and development approvals issued by municipal planning boards. For convenience a link to the model code is provided below:

<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/SCPlanningCommission/2019/P/SDR%20Final%20Draft%20103019.pdf>

The encroachment of the off street parking and the need for a lot occupancy variance from 25% to 54.2% indicates that the subject development of 98 units on 3.5 acres (28 units to the acre) can be considered an over-intensification of the use of the premises.

It is not evident in the referral to the Suffolk County Planning Commission if the petitioners have reviewed the Commission's guidelines on energy efficiency. It is anticipated all apartment units would be constructed to Energy Star Standards in accordance with Town of Smithtown Code requirements. The petitioner should review the Commission standards on energy efficiency for further informational purposes.

The petitioner should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein.

The petitioner should review the Planning Commission guidelines particularly related to universal design and incorporate into the proposal, where practical, design elements contained therein.

## **STAFF RECOMMENDATION**

Approval of the change of zone referral of TDG Realty Acquisitions from WSI (Wholesale Service Industry) and R-10 (Residential 10,000 SF minimum lot size) to RM-GA (Residential Multifamily – Garden Apartments) subject to the following comments:

1. With regard to demolition of existing buildings to be carried out. Any on site recycling of demolition materials should be conducted at the farthest point from any sensitive residential receptors to reduce the issues related to noise and dust from recycling operations.

2. A Phase I Environmental Site Audit, containing an analysis of asbestos containing material in buildings, debris piles, soils or other environmental conditions of concern, is appropriate for the subject parcel. The ESA should be made part of the application review record.
3. The petitioner should begin/continue dialogue with the Suffolk County Department of Health Services and/or the Suffolk County Department of Public Works regarding the onsite treatment of sewage from the proposed apartment development including connection requirements to existing Sewage Treatment Plants in the area.
4. It is not apparent if the petitioner or the Town have addresses the New York State Long Island Workforce Housing Act or if any of the units are intended to be set aside for individuals with developmental disabilities. No less than ten (10) units should be set aside for affordable housing purposes. Some percentage of the ten units should be set aside for individuals with developmental disabilities.
5. The Suffolk County Planning Commission's publications Managing Stormwater - Natural Vegetation and Green Methodologies should be reviewed and additional stormwater mitigations incorporated where practical.
6. The project sponsors should be directed to conduct a Traffic Impact Study on the local roadways, particularly NYS Rte. 25 (Jericho Turnpike). Improvements as necessary to local streets and NYS Rte. 25 may be necessary and may include right-of-way dedication and/or widening, signage, signalization, sidewalks and street furniture amenities.
7. The petitioner should begin/continue dialogue with the New York State Department of Transportation regarding roadway improvement to NYS Rte. 25 necessitated as a result of the construction of the TDR Realty Acquisitions apartment project.
8. The subject development site for the TDG Realty Acquisitions apartment building can be considered on the verge of being remotely situated and possessing limited amenities in a walkable distance desirable to support multi-family residence purposes. The petitioner should be directed to consider providing a van/shuttle service to points that include health service and grocery shopping.
9. The petitioner should investigate "Parking Stall Demand Reduction" or "PSDR" techniques to justify the lot coverage variance request and the proposed and for the creation of additional buffers and natural storm water treatment area. The Suffolk County Planning Commission has produced a draft "model code" and report on such PSDR techniques and has recommended that no building or structure should be constructed, used or occupied without the adoption of Parking Stall Demand Reduction (PSDR) techniques conditioned, through covenants and restrictions, on land use and development approvals issued by municipal planning boards. For convenience a link to the model code is provided below:  
  
<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/SCPlanningCommission/2019/PSDR%20Final%20Draft%20103019.pdf>
10. It is not evident in the referral to the Suffolk County Planning Commission if the petitioners have reviewed the Commission's guidelines on energy efficiency. It is anticipated all apartment units would be constructed to Energy Star Standards in accordance with Town of Smithtown Code requirements. The petitioner should review the Commission standards on energy efficiency for further informational purposes.

11. The petitioner should review the Planning Commission guidelines particularly related to public safety and incorporate into the proposal, where practical, design elements contained therein.

12. The petitioner should review the Planning Commission guidelines particularly related to universal design and incorporate into the proposal, where practical, design elements contained therein.







